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4 UNITED STATES DISTRICT COURT
5 DISTRICT OF NEVADA

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7 STATE OF NEVADA,

8 Plaintiff,

9 v.

10 CRAIG IAN GILBERT,

11 Defendant.

Case No. 2:19-cv-01890-RFB-DJA

ORDER

12 On November 1, 2019, this Court entered an order denying Defendant Craig Ian Gilbert's
13 application for leave to proceed in forma pauperis and notice of removal with prejudice. ECF No.
14 3. Gilbert has since filed a motion for reconsideration, motion for contempt hearing, motion for
15 appointment of counsel, motion for recusal of judge, and motion to file correction. ECF Nos. 5, 6,
16 7, 10, 15.

17 Rule 59(e) of the Federal Rules of Civil Procedure allows parties to move to alter or amend
18 a judgment within twenty-eight days of entry of the judgment. Fed. R. Civ. P. 59(e). "Whether or
19 not to grant reconsideration is committed to the sound discretion of the court." Navajo Nation v.
20 Confederated Tribes and Bands of the Yakama Indian Nation, 331 F.3d 1041, 1046 (9th Cir. 2003).
21 However, "a motion for reconsideration should not be granted, absent highly unusual
22 circumstances, unless the district court is presented with newly discovered evidence, committed
23 clear error, or if there is an intervening change in the controlling law." Marlyn Nutraceuticals, Inc.
24 v. Mucos Pharma GmbH & Co., 571 F.3d 873, 880 (9th Cir. 2009) (internal quotation and citation
25 omitted). A motion for reconsideration "may *not* be used to raise arguments or present evidence
26 for the first time when they could reasonably have been raised earlier in the litigation." Id. (internal
27 quotation and citation omitted). Moreover, "[m]otions for reconsideration are disfavored. A

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1 movant must not repeat arguments already presented unless (and only to the extent) necessary to
 2 explain controlling, intervening law or to argue new facts.

3 The Court previously denied Gilbert's application to proceed in forma pauperis and
 4 complaint because Gilbert sought to remove an ongoing state court criminal proceeding to this
 5 Court. A defendant in a state court criminal proceeding may not remove an ongoing state court
 6 criminal proceeding to federal court unless the defendant was a federal officer acting in his official
 7 capacity, which Defendant does not allege in this case. 28 U.S.C. § 1442(a)(1); Arizona v.
 8 Manypenny, 451 U.S. 232, 241 (1981).

9 Gilbert identifies no error of law or new facts warranting reconsideration of the Court's
 10 previously entered order. Gilbert also filed a motion for recusal but identifies no legitimate reason
 11 for recusal, instead making spurious allegations of a widespread conspiracy between this Court
 12 and the prosecution in his state court criminal case. See United States v. Holland, 519 F.3d 909,
 13 912 (9th Cir. 2008) ("[I]n the absence of a legitimate reason to recuse himself, a judge should
 14 participate in cases assigned.") (internal citations omitted). The Court therefore denies all pending
 15 motions.

16 **IT IS THEREFORE ORDERED** that Defendant Craig Ivan Gilbert's Motion for
 17 Reconsideration (ECF No. 5) is DENIED.

18 **IT IS FURTHER ORDERED** that Defendant Craig Ivan Gilbert's Motion for Hearing
 19 Before Magistrate Judge (ECF No. 6) is DENIED.

20 **IT IS FURTHER ORDERED** that Defendant Craig Ivan Gilbert's Motion for
 21 Appointment of Counsel (ECF No.7) is DENIED.

22 **IT IS FURTHER ORDERED** that Defendant Craig Ivan Gilbert's Motion for Recusal
 23 of Judge (ECF No. 10) is DENIED.

24 **IT IS FURTHER ORDERED** that Defendant Craig Ivan Gilbert's Motion to Make/File
 25 Correction (ECF No. 15) is DENIED.

26 **DATED:** May 13, 2020.



RICHARD F. BOULWARE, II
UNITED STATES DISTRICT JUDGE